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Chairman: Mr. Kmoníček ..... (Czech Republic)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Kuznetsov

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The meeting was called to order at 10.10 a.m.

Agenda item 119: Review of the efficiency of the administrative and financial functioning of the United Nations (*continued*)

Strengthening the investigation functions in the United Nations (A/58/708)

1. **Mr. Nair** (Under-Secretary-General for Internal Oversight Services), introducing the report of the Office of Internal Oversight Services (OIOS) on strengthening the investigation functions in the United Nations (A/58/708), said that in preparing the report, OIOS had contacted 59 departments, offices, funds, programmes and missions to obtain information that would permit an assessment to be made of the nature and extent of the investigations that had been conducted by those offices in 2002. The review focused on how programme managers handled their administrative responsibility for investigations within their programmes, whether they retained the necessary independence when they were involved in investigations, and whether training and proper guidelines existed to assist them in the conduct of investigations. The issue of independence was especially important for ensuring a professional and fair process, since it required a clear separation between those conducting the investigation and those involved in the case.

2. During its review, OIOS had discovered that, despite the yearly increase in the number of serious and complex cases reported, few investigations were done by the offices. Programme managers had reported having had little if any training in investigation, which suggested that they might be ill-equipped to recognize problems and take proper measures to investigate them. The review also found that formal written procedures on investigations rarely existed in the offices. That, coupled with the fact that few managers had even a basic knowledge of how to conduct investigations made it unlikely that independence was consistently being given the necessary emphasis.

3. The report contained suggestions for improving the way in which investigations were conducted in the Organization. An effective investigation function was necessary in order to reduce the risks that the United Nations faced as a result of lapses in integrity.

4. His Office therefore proposed to undertake a series of measures over the next 12 months and to provide a follow-up report to the General Assembly at its fifty-ninth session. In consultation with the relevant departments and offices as well as with investigative units in other offices, it intended, firstly, to develop a policy on the role of programme managers in investigative activities. The Office would also draft proper written guidelines on the investigation function to sensitize programme managers on how to investigate cases in the most effective manner and report to OIOS or to other dedicated professional bodies the more complex cases that required a professional approach. In addition, OIOS would look into how basic investigative training could be provided to offices, especially those considered high-risk operations. Lastly, OIOS would conduct on-site visits to high-risk missions and programmes and work closely with other oversight institutions to coordinate and advocate the most effective investigations practices in the United Nations.

5. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, the acceding countries (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia), the associated countries (Bulgaria, Romania and Turkey), the stabilization and association process countries (Albania, Croatia, Serbia and Montenegro and the former Yugoslav Republic of Macedonia), and, in addition, Iceland, Liechtenstein and Norway, expressed appreciation for the valuable work being done by OIOS. The delegations on whose behalf she spoke recognized how overburdened the Office was in the field of investigations.

6. A strong and effective investigations function was an important tool to ensure the protection of United Nations property and staff against misuse and abuse and against sanctioning of illegal activity and misconduct. The European Union attached great importance to the concept of independent investigation in matters of criminal activity, sexual harassment and other forms of misconduct. Disciplinary action and criminal prosecution must be pursued wherever warranted in order to hold individuals accountable and to give a clear message to all staff members that misconduct would not be tolerated. In that connection, transparency about the rules governing staff conduct and a serious commitment to apply appropriate disciplinary procedures or, where necessary, to seek legal prosecution, would be a major deterrent and

would lead in due course to a marked decrease in the number of cases that required investigation. Good management practices were the key to keeping illegal or improper conduct to a minimum.

7. The organizational integrity initiative launched in May 2003 was an important step in promoting a culture of integrity and ethics within the United Nations. Human resources were the Organization's most valuable asset and it was therefore in the interest of the Organization and Member States that each member of staff be committed to maintaining high ethical standards. The European Union also attached importance to resolving differences of opinion where the conclusions of OIOS investigations were contested by programme managers. Such differences should be resolved by senior management and should not result in a decision to take no action.

8. The Union welcomed the OIOS recommendations that called for increased basic investigative training for programme managers, for the development of written procedures for the proper conduct of investigations, and for the promotion of the independent function within the United Nations system. However, the recommendation to divide incidents to be investigated into two categories raised concerns for the Union. While category I listed a number of high-risk incidents that required independent investigation, category II encompassed so-called low-risk incidents, which would be investigated internally by programme managers. The Union had serious concerns that the interpretation as to the category into which an alleged offence might fall could be subject to a conflict of interest on the part of the programme manager.

9. Consideration should therefore be given to setting up a system whereby all suspected cases of illegal or irregular behaviour should be reported to OIOS and the Office of Human Resources Management, which could then determine, in consultation with the programme managers, the most appropriate means of investigation according to the nature of the case. Such a system of mandatory reporting and record keeping would not only minimize conflicts of interest but also assist in the development of strategies to address patterns of misconduct at a system-wide level.

10. **Ms. Thorpe** (Australia), speaking also on behalf of Canada and New Zealand, said that the delegations on whose behalf she spoke supported the approach described in the report and encouraged OIOS to continue its good work in that area. Further work was required to address the problems identified in the report about the lack of investigations training in the Organization. While the proposal for serious cases to be investigated independently was a good one, the goal should not be to centralize oversight functions in a cadre of professional investigators. Departments, offices, funds and missions must be involved in order to entrench a culture of accountability and ensure the long-term integrity of the Organization.

11. The report's recommendations for further training and development of procedures to improve the investigative capacity of United Nations offices were timely, but if the new procedures were too onerous it would exacerbate the problem of a lack of information sharing on investigations carried out jointly with OIOS.

12. **Ms. Ebbesen** (United States of America) said that her delegation took note of the findings in the report and agreed with its conclusion that guidelines and training programmes in the handling of investigations should be established, especially when programme managers were conducting the investigations or when an entity lacked an independent internal investigation function. In that connection, it would be useful to know how many United Nations organizations and offices lacked an independent internal investigative capacity and what would be the financial implications of implementing the OIOS recommendation to provide advice on setting up independent investigation units in entities where they did not exist.

13. **Mr. Farid** (Saudi Arabia) said that his delegation agreed with the conclusion of OIOS that the independence of the investigation function was a crucial factor. It, however, disagreed with the proposal to strengthen the capacity of local staff to conduct inquiries into less serious matters. All infractions of the Financial Regulations and Rules of the United Nations without exception must be subject to disciplinary action or criminal prosecution and programme managers must refer all cases of misconduct by their staff to the professional investigative units within their offices.

Agenda item 127: Human resources management
(A/58/283, A/58/666; A/C.5/58/L.13)

14. **Ms. Haji-Ahmed** (Office of Human Resources Management), introducing the reports of the Secretary-

General on the composition of the Secretariat (A/58/666), the list of staff of the United Nations Secretariat (A/C.5/58/L.13), and amendments to the Staff Rules (A/58/283), said that the report of the Secretary-General on the composition of the Secretariat covered the period from 1 July 2002 to 30 June 2003 and provided information on the demography of the staff of the Secretariat and on the system of desirable ranges for geographical distribution. The report focused on staff holding appointments of one year or more in posts that were subject to geographical distribution in the system of desirable ranges. It provided an analysis of the main demographic characteristics of staff holding such appointments, excluding certain types of staff, as well as information that had been requested by the General Assembly in its resolution 57/305 on unrepresented and underrepresented Member States; on measures that had been taken to achieve gender balance in the Secretariat; and on the implementation of human resources action plans. The report also contained data on the composition of project personnel in the General Service and related categories of staff. It noted that during the reporting period some progress had been achieved in the representation of Member States and that further steps had been made towards achieving gender parity at various levels.

15. The report of the Secretary-General on amendments to the Staff Rules (A/58/283) contained the full text of new rules or amendments to existing rules, consistent with staff regulation 12.3. It also provided the rationale for those amendments, which were of a technical nature.

16. The report of the Secretary-General transmitting the list of staff of the United Nations Secretariat as at 1 July 2003 was a standard annual report submitted in accordance with General Assembly resolution 47/226 which showed the distribution of staff in the Secretariat by organizational entity, functional title, grade and nationality. It included staff members who, as at 1 July 2003, held an appointment of one year or more or who had completed at least one year of service.

17. **The Chairman** informed members of the Committee that in a letter dated 11 March 2004 from the Permanent Observer Mission of the Holy See to the United Nations addressed to the Chairman of the Fifth Committee, the Permanent Observer of the Holy See had requested permission to address the Fifth Committee during the general debate on agenda item 127 (Human resources management).

18. If he heard no objection, he would take it that the Committee agreed to grant the request.

19. *It was so decided.*

20. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, the acceding countries (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia), the associated countries (Bulgaria, Romania and Turkey), the stabilization and association process countries (Albania, Croatia, Serbia and Montenegro and the former Yugoslav Republic of Macedonia), and, in addition, Iceland, Liechtenstein and Norway, said that the European Union duly noted the changes that the Secretary-General intended to make to the Staff Regulations and Rules. With regard to the report on the composition of the Secretariat, the Union was especially pleased to note that during the period from 1 July 1998 to 30 June 2003, the number of female staff members at the D-1 grade and above had increased by approximately 20 per cent and that during the previous five years the number of female staff in posts subject to geographical distribution had increased by 3.7 per cent. It noted, however, that the two most senior grades in the Secretariat, those of Under-Secretary-General and Assistant Secretary-General, still had a low female staff representation and that the number of women in the Director category also remained low.

21. The European Union therefore welcomed the initiative of the Office of Human Resources Management, together with the Office of the Special Adviser on Gender Issues and Advancement of Women, to undertake a number of innovative efforts to reach the gender balance target in the Secretariat. It wished to flag its concern, however, at the fact that, as at 30 June 2003, 17 Member States were unrepresented in Secretariat posts subject to geographical distribution compared with 16 unrepresented Member States in June 2002 and that 13 Member States were unrepresented in all staff categories.

22. The Union also noted that, while as at June 2003 some of its own member States were overrepresented, others were still underrepresented. It wished to again stress the importance of ensuring the equitable geographic representation of all Member States in the Secretariat and, in that connection, welcomed the organization of national competitive examinations in

those Member States that were inadequately represented in the Secretariat, including a number of affected European Union countries. The Secretariat should recruit as many successful candidates as possible from the roster.

23. The report pointed out that a total of 1,597 staff members would reach the mandatory retirement age during the next five years. The Secretariat should take advantage of that situation to improve geographical and gender distribution and to help reduce the average age of its staff.

24. **Ms. Udo** (Nigeria), speaking on behalf of the African Group, extended the Group's condolences to the Government and people of Spain on the recent tragedy in that country. The Group attached great importance to the issue of the composition of the Secretariat and wished to reaffirm the provisions of the Charter that the paramount consideration in the employment of the staff and in the determination of the conditions of service should be the necessity of securing the highest standards of efficiency, competence and integrity, with due regard being paid to the importance of recruiting staff on as wide a geographical basis as possible. The African Group remained concerned that the composition of the staff at the decision-making level continued to be skewed to the detriment of Africans, a situation that was further exacerbated by the factor of retirements and other forms of attrition. It was particularly concerned at the steady decline in the representation of African nationals at decision-making levels in the Secretariat and urged the Secretary-General to take timely measures to rectify that trend using all the mechanisms at his disposal. In the meantime, the Group would welcome a status chart of all programme managers with an indication of their levels and nationality.

25. With regard to gender mainstreaming, the African Group was concerned at the underrepresentation of women in the Secretariat, especially at decision-making levels, even as it noted the modest efforts that had been made to address the problem. Pending the completion of the Secretary-General's report on the comprehensive review of the progress made towards redressing the gender imbalance in the Organization, the Group would appreciate an interim report on the number of women by nationality that had been appointed to decision-making posts.

26. **Mr. Tootoonchian** (Islamic Republic of Iran), speaking on behalf of the Organization of the Islamic Conference (OIC), said that careful management and continuous monitoring of its human resources were critical to the success of the United Nations. Through the Charter of the United Nations and the Staff Regulations and Rules, the Organization had consistently supported its staff and provided them with the best possible conditions of service commensurate with their responsibilities and international character.

27. Against that background, OIC would welcome clarification of a number of issues raised in the Secretary-General's bulletin on family status for purposes of United Nations entitlements (ST/SGB/2004/4). It wished to know, firstly, whether there had been any changes in the United Nations Staff Regulations and Rules that required the issuance of the bulletin in question and what had been the practice of the United Nations on that particular issue prior to the date of issuance of the bulletin. Secondly, it wished to know whether the content of the bulletin was legally consistent with the existing Staff Regulations and Rules. Thirdly, since it was the prerogative of Member States to supplement or amend the Staff Regulations and Rules, it would be interesting to know on what basis the Secretariat had decided to issue the bulletin. Lastly, since the content of the bulletin had an impact on the deliberations of related issues by intergovernmental bodies, including the Fifth Committee, OIC wondered why the Secretariat had issued the bulletin.

28. **Mr. Wardono** (Indonesia) said that, because management of the human resources of the Secretariat was important to enable the Organization to carry out mandated programmes of tangible benefit to Member States, the conditions of service of Secretariat staff were themselves important and must be consistent with the Staff Regulations and Rules of the United Nations.

29. His delegation was therefore concerned at the expanded definition of family in the Secretary-General's bulletin and whether the definition of family in the Staff Regulations had been amended to entitle others outside its scope to receive benefits.

30. Amendment of the Staff Regulations and Rules was an intergovernmental matter and his delegation would therefore like to know the legal basis for the new concept of family described in the bulletin, particularly with regard to paragraph 4.

31. He looked forward to an appropriate explanation from the Secretariat regarding that question and others raised by Member States and hoped that sufficient time would be allocated to the debate.

32. **Mr. Elji** (Syrian Arab Republic) said that the Organization's staff were its primary asset and human resources management was therefore an important issue. The Secretary-General's bulletin raised concerns for his delegation. Certain of the Staff Regulations and Rules might have been violated and the Secretary-General might have exceeded the bounds of his jurisdiction and created financial consequences without an appropriate legal basis which was a clear violation of the Financial Regulations and Rules of the Organization. Furthermore, a number of concepts in the bulletin were contradictory and controversial. The Secretariat must respond promptly to the concerns of Member States in order to clarify the matter and resolve it appropriately.

33. **Mr. Yamamoto** (Japan) said that his delegation recognized that human resources management was of paramount importance for the Organization and commended the Office of Human Resources Management for its reform efforts. The changes introduced should be institutionalized.

34. Although the General Assembly, in its resolution 57/305, had requested the Secretary-General to include in subsequent reports on the composition of the Secretariat an analysis of the level of underrepresentation of Member States, his delegation regretted that the current report (A/58/666) had failed to address the issue of the level of underrepresentation. The Assembly had made that request because an earlier report on the composition of the Secretariat (A/57/414), had mentioned only the number of underrepresented Member States. In annex I to its resolution 58/270, the General Assembly had again requested the Secretary-General to include the level of underrepresentation of Member States, in addition to the number of unrepresented and underrepresented Member States, as a new performance measure under the indicators of achievement for the operational services of the Office of Human Resources Management.

35. What the General Assembly had requested the Secretary-General to include in the report on the composition of the Secretariat was clearly an analysis of the difference between the number of nationals employed and the lower limit of the desirable range of each underrepresented Member State. Providing only the number of unrepresented and underrepresented Member States did not comply with the request of the General Assembly. An analysis of the level of underrepresentation of Member States should be the basis for discussion of that issue in the General Assembly and should help to determine the performance measure by which the achievements of the Office of Human Resources Management would be gauged under the results-based budgeting system. The next report on the composition of the Secretariat should therefore include an analysis of the level of underrepresentation so that the General Assembly would be properly informed when discussing the matter at its fifty-ninth session.

36. **Mr. Abbas** (Pakistan) said that without its human resources, the United Nations could not fulfil its programmes or function effectively or efficiently. His delegation would continue to work with the other Member States to improve the work environment of the Organization so that its staff could provide quality service. That notwithstanding, his delegation had considered the Secretary-General's bulletin with great concern. While it fully respected the authority of the Secretary-General as the chief administrative officer of the Organization, changing or amending the United Nations Staff Regulations and Rules was the prerogative of Member States.

37. In issuing the bulletin, the Secretary-General had apparently disregarded related legislative amendments which made it clear that Member States had reached no consensus that the term "domestic partnership" meant anything other than the long-standing concept of the family. The Secretariat should abide by the legislative mandates laid down by the Member States and clarify the sensitive issues that had been raised.

38. Although his delegation had a keen interest in the ethical aspects of the debate, it wished to discuss the matter from the administrative and financial point of view, which were within the purview of the Fifth Committee. It believed that the bulletin should be withdrawn or brought into conformity with the relevant legislative mandates and that the Bureau should allocate sufficient time for informal discussions on the item so that the issue could be resolved by consensus.

39. **Mr. Al-Mansour** (Kuwait) said that the issues connected with the Secretary-General's bulletin on

family status for purposes of United Nations entitlements must be resolved and the Secretariat should respond to the concerns expressed by the Member States as soon as possible.

40. **Mr. El Naggar** (Egypt) said that his delegation wished to stress the need to respect the mandates of the Charter of the United Nations and the rules and procedures that had been agreed by consensus in the General Assembly for the administrative and financial organization of the Secretariat. Any attempt to jeopardize the role of the General Assembly encroached upon the prerogatives of Member States, thereby harming them all. Existing texts and instruments made any amendment to or alteration of the United Nations Staff Regulations and Rules a matter for the General Assembly alone. Regardless of any differences of opinion between Member States, that fundamental principle must be respected.

41. The bulletin raised many objective issues which must be satisfactorily resolved. In the meantime, his own questions and those of OIC must be answered in writing. Any attempt to impose definitions which had not been agreed upon in the multilateral, intergovernmental setting of the Fifth Committee would be unacceptable. His delegation understood the need to respect the local laws of Member States, but did not understand the inequalities and disparities existing in those laws. Member States could not condone or accept imposition of the status quo. The path ahead and the responsibilities and legal framework were clear and there must be no attempt to circumvent them.

42. The social, conceptual and religious issues undoubtedly involved could not be brought into the debate, which must centre instead on the rules and procedures that Member States had established by consensus and that must be respected. His delegation was prepared to defend those rules and procedures and Member States must re-evaluate their attitude towards those issues of principle. Legal issues, such as potential conflicts of law, also arose and could cause theoretical and practical problems.

43. **Mr. Farid** (Saudi Arabia) said that the Secretary-General's bulletin amended the rules and regulations governing human resources management, even though such action was the prerogative of Member States, which should have been consulted beforehand. Its contents fell within the remit of the Fifth Committee, which was responsible for administrative and financial matters. Since implementation of the bulletin would have an impact on the financial resources of the Organization, the General Assembly should remain seized of the matter until it was completely resolved. In the meantime, the bulletin should be withdrawn to avoid prolonged discussion and debate.

44. **Ms. Ahmed** (Sudan) said that her delegation was puzzled by the content and timing of the Secretary-General's bulletin, which addressed issues that were still under discussion at the intergovernmental level and on which positions were not only divergent but also highly controversial. The staff, who represented the principles and universality of the Organization, must have the best possible working conditions so that they could fulfil their functions as efficiently and competently as possible and reflect the consensus of the international community on legal and moral principles. Those principles must be determined by consensus rather than exception. It was unnecessary to have in-depth discussions on controversial matters which attracted firmly held views. Her delegation wished to know why the Secretariat had chosen to adopt hasty measures that were certain to provoke debate. It hoped that the answers provided would be satisfactory and unambiguous to enable the Committee to reach a sound and comprehensive solution.

45. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, the acceding countries (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia), the associated countries (Bulgaria and Romania), the stabilization and association process countries (Bosnia and Herzegovina, Croatia, Serbia and Montenegro and the former Yugoslav Republic of Macedonia), and, in addition, Iceland, Liechtenstein and Norway, welcomed the Secretary-Genera's bulletin, which reflected his determination to modernize human resources management in the Organization, in line with legislative advances in many Member States and with the practice in other international organizations. The principle of determining family status according to the law of a country of nationality had been long-established and widely recognized in the Secretariat. The European Union was satisfied with that practice and saw no need to contest the prerogative of the Secretary-General in that area.

46. **Ms. M'Rabet** (Tunisia) said that in the six months since her arrival in New York she had seldom

seen women officials on conference-room podiums. Even though many African countries had women Government ministers and successful businesswomen and the influence of women was strong in the informal sector and in families, she had rarely heard African women provide briefings in the Organization. Future recruitment must exploit the potential of Africa.

47. With regard to the Secretary-General's bulletin, her delegation would await written answers from the Secretariat to the questions posed by OIC and Member States.

48. **Mr. Kramer** (Canada), speaking also on behalf of Australia and New Zealand, said that the Secretary-General's bulletin was not an issue for the General Assembly to act upon because the specific action taken was administrative and within the managerial purview of the Secretary-General as chief administrative officer. The determination of the Secretary-General reflected in that administrative measure represented a principled application of the long-standing framework for defining family status for the purpose of staff entitlements.

49. The issue was not whether delegations agreed or disagreed with any particular family model or relationship, but rather whether the United Nations should continue to apply national norms. The answer must be yes. Since family practice touched on most deeply felt cultural, social and religious values, the Organization's diverse membership could never agree on a single definition and there was therefore no alternative to the long-standing practice. Member States had differing perspectives on the definition of family status and United Nations practice, which was based on national norms, reflected that diversity. The Secretary-General had been required to act as he had done, since to do otherwise would merely have fostered discrimination within the staff, whereby some people received family benefits according to the norms of their countries and others did not.

50. **Ms. Nakian** (United States of America) expressed concern at the trends indicated in the report of the Secretary-General on the composition of the Secretariat. If not addressed, they would result in underrepresentation of the United States of America in the near future and the Secretariat should therefore continue its efforts to address the issue.

51. **Mr. Rahman** (Bangladesh) said that his delegation was deeply concerned at the Secretary-General's bulletin, which had been issued without a proper mandate. The bulletin was also premature, in that the definition of extended family had not yet been agreed upon in the appropriate intergovernmental bodies. It would therefore be in the best interests of the Organization to withdraw the bulletin and to hold informal consultations on the matter.

52. **Mr. Ekorong à Dong** (Cameroon), with reference to the Secretary-General's bulletin, said that the same issue had been discussed at great length four or five years earlier and that no consensus had been reached. The Member States had asked the Secretariat to wait before taking any action while the discussions continued. The action by the Secretary-General before Member States had reached agreement seemed to indicate a lack of respect. His delegation requested that the bulletin be withdrawn, as its subject matter went beyond administration.

53. With reference to the report of the Secretary-General on the composition of the Secretariat, a status chart of all programme managers by level and nationality should be made available before the discussion of the item at the next session.

54. **Mr. Onaner** (Turkey) said that delegations had the right to seek clarification from the Secretariat on the Secretary-General's bulletin, both from an administrative and a budgetary standpoint. In his view, the preamble to the Staff Regulations of the United Nations (ST/SGB/Staff Regulations/Rev.9), on their scope and purpose, gave the Secretary-General the mandate to take that action, as it involved broad principles of personnel policy. The issue was a delicate one that should be discussed with caution and insight and in a spirit of harmony.

55. **Mr. Klee** (Observer for the Holy See) said that the issue of family status was not just a routine administrative matter. In the Secretary-General's bulletin, a domestic partnership was being equated with family, a policy which conflicted with article 16 of the Universal Declaration of Human Rights. The aim stated in the bulletin was to ensure respect for diversity, yet equating same-sex unions with marriage contradicted his delegation's basic understanding of marriage as being between a man and a woman and of the family as the basic unit of society. The provision contained in the bulletin represented a progressive development of international law which should be discussed in open

debate among Member States rather than left to the Administration.

56. **Mr. Elji** (Syrian Arab Republic) said that document ST/IC/2003/67, announcing the 2004 competitive examination for Arabic interpreters, had not been distributed to missions, as required by paragraph 22 of General Assembly resolution 57/305. Many candidates had thus been deprived of a chance to apply and he therefore requested an extension of the application deadline.

57. He noted in that connection that, with the exception of assistant editors, General Service appointments had been frozen for the biennium 2004-2005. The Secretariat should fill those vacancies in order to ensure the timely processing of documentation.

The meeting rose at 11.40 a.m.